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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,801	09/25/2003	Masahiro Terada	FJ-2003-018-US	8163

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC  
8321 OLD COURTHOUSE ROAD  
SUITE 200  
VIENNA, VA 22182-3817

EXAMINER
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NEGRON, WANDA M

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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07/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/669,801

**Applicant(s)**

TERADA, MASAHIRO

**Examiner**

WANDA M. NEGRON

**Art Unit**

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-8, 10-12, 17 and 18 is/are rejected.  
7) ☒ Claim(s) 9 and 13-16 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In view of the appeal brief filed on April 15, 2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8, 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellock et al. (US Pre-Grant Publication 2004/0027369 A1), hereinafter referred to as Kellock, in view of Tojo (US Patent No. 7,391,436 B2).**

Regarding **claim 1**, Kellock discloses an image editing apparatus (*i.e.*, an editing system; see abstract) comprising a recording device which records a plurality of images associated with image related information including at least one of a shooting date and time, a shooting condition, a shooting place, and a user name. More specifically, Kellock discloses a digital video recorder wherein the editing apparatus is embodied which conventionally records input video 101 and input images 103 (see paragraphs [0020], [0040], [0041]), and wherein said input material comprises video descriptors 111 (*e.g.*, time of shooting, focal distance, GPS location of the scene, ambient light level, etc.) embedded within it (see paragraph [0062]).

In addition, Kellock discloses a video effect recording device which records image related information associated with a video effect during image switching. More specifically, Kellock discloses using style information 106 comprising, *inter alia*, (1) selective inclusion parameters which are a set of target values to determine the input material "to be used at different points in the output production" (*i.e.*, image related threshold values such as average luminosity of video or average total motion of video; see paragraph [0098]); and (2) combination parameters to "specify the way in which elements of the input material are to be combined" using transition effects (*i.e.*, parameters

determining the types of transitions to be used during image switching (*e.g.*, cuts, dissolves and wipes), duration of the transition effect, how often and in what sequence to implement the transition effects; see paragraph [0101]). In addition, Kellock discloses that said target values are associated with a transition effect parameter, *e.g.*, a target brightness is associated with a transition type (see table 1). Those ordinarily skilled artisans in the relevant art would recognize that said style information would be inherently stored in a recording device in order for the editing system to make use of it. It is noted that the examiner is not equating a video effect recording device to style information data, but to the inherent recording device wherein the style information data to be used during editing is recorded.

Kellock discloses a device, *i.e.* constructor 121, for selecting images on the basis of a comparison of the associated image related information to the target values associated with a transition effect parameter discussed above (see paragraph [0129]), but is silent on the matter of making a comparison between two images. However, the concept of comparing image related information about a first and a second image is well known in the art, as evidenced by Tojo. Tojo discloses a moving image editing apparatus 100 wherein image related information about a first image and image related information about a second image are compared (see figure 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the comparison capabilities of Tojo in the constructor device of Kellock because an "unpleasant impression of the reproduced image" generated by an inadequate

edition of two scenes "can be alleviated and a satisfactory result of edition can be obtained" (see Tojo, col. 16, lines 21-34) on the basis of the result of said comparison.

Kellock as modified by Tojo discloses a video effect selection device which reads from the video effect recording device a video effect according to matching image related information between the image related information about the first and second images as a result of the comparison. More specifically, Kellock in view of Tojo discloses that the constructor having the comparison capabilities taught by Tojo receives the style information and the video descriptors, and makes editing decisions including the types of transition effects to be used and stores those decision in the media scene graph 122 (see paragraph [0072]), *e.g.* selecting the use of slow dissolve transitions when the video segments to be edited satisfy a low brightness condition (see paragraph [0106], lines 10-13).

Kellock as modified by Tojo discloses an image joining device, i.e. a renderer 123, which reads the first and second images recorded in the recording device (see video and image data as inputs of the renderer in figure 1 and paragraph [0075]), and automatically joins the images by applying the video effect read by the video effect selection device to a portion in which the images are to be joined in time. More specifically, Kellock in view of Tojo discloses automatically concatenating a first and a second video segment (see paragraph [0090]) based on the input from the media scene graph 122 which, as discussed

above, receives the determination about scene transitions from the constructor (see paragraph [0072] and figure 1).

Kellock as modified by Tojo also discloses an output device, i.e. an audio-visual monitor (see Kellock, paragraph [0075], lines 7-9), which outputs the joined images, *i.e.* an output production 108.

**Claim 2** has limitations similar to those treated in the above rejection of claim 1, and those limitations are met by Kellock in view of Tojo as discussed above. In addition, **claim 2** recites the following limitations: a recording medium loading unit which loads the recording device, i.e. an inherent means for importing embedded descriptors to the editing device (see Kellock, paragraph [0062], lines 1-10), and the use of a range of image related information instead of matching image related information, e.g. the use of an indirect matching with derived descriptors (see Kellock, paragraph [0171], lines 6-9, and paragraph [0172], lines 5-8) instead of identical type descriptors.

**Claim 3** has limitations similar to those treated in the above rejection of claim 1, and those limitations are met by Kellock in view of Tojo as discussed above. In addition, **claim 3** recites the following limitation also anticipated by Kellock et al.: the use of a range of image related information instead of matching image related information, e.g. the use of an indirect matching with derived descriptors (see Kellock, paragraph [0171], lines 6-9, and paragraph [0172], lines 5-8) instead of identical type descriptors.

**Claim 4** is drawn to an image editing program for performing the operation process or steps corresponding to the apparatus claimed in claim 3, said apparatus also comprising an information processing device for controlling and synchronizing the operation of the recording device, the video effect recording device, the comparison device, the video effect selection device, the image joining device, and the output device. **Claim 4** corresponds to apparatus claim 3 and is rejected for the same reasons of obviousness as used above, since it would have been inherent that a processing unit would have been required in order to operate both, the editing apparatus claimed in claim 3, and the editing system disclosed by Kellock in view of Tojo.

Method **claim 5** is drawn to the method of using the corresponding apparatus claimed in claim 3. Therefore, method **claim 5** corresponds to apparatus claim 3 and is rejected for the same reasons of obviousness as used above.

Regarding **claim 6**, as mentioned in the discussion of claim 1 above, Kellock in view of Tojo teaches all the limitations of the parent claim. Kellock in view of Tojo also discloses that the images are recorded in an image file (e.g., digital video or image files, see Kellock, paragraphs [0040] and [0041]) including a thumbnail image (see Tojo, figure 20).



Regarding **claim 7**, Kellock discloses that the video descriptors 111 embedded within or linked to the input video or image comprise at least a "time-of-shooting" (*i.e.*, capturing time; see paragraph [0062], lines 6-11).

Regarding **claim 8**, as mentioned in the discussion of claim 1 above, Kellock in view of Tojo teaches all the limitations of the parent claim. Tojo also discloses storing an image in an image pickup unit using an MPEG standard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an MPEG compression format because they are ISO/IEC standards and, therefore, implementation is known to be effective.

Regarding **claim 11**, Kellock in view of Tojo discloses an input device, *i.e.* a GUI, for selecting images to be edited from among said plurality of images (*i.e.*, selecting the input visual material by allowing the "user to give the name of one or more video or images files containing the input material"; see paragraphs [0190], [0195]).

Regarding **claim 17**, Kellock in view of Tojo discloses that said image joining device joins said images by automatically (see paragraph [0082]) applying said video effect during image switching, *i.e.* applying a transitional effect within a media timeline wherein a first image is ending and a second image is beginning (*e.g.*, see figure 2 and paragraph [0087]).

Regarding **claim 18**, Kellock et al. teach that said image-editing apparatus comprises one of an electronic camera, a personal computer, and a personal digital assistant (PDA) (see paragraph [0020] and [0288]).

**Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kellock in view of Tojo, and further in view of Okada et al. (US Patent No. 5,664,243), hereinafter referred to as Okada.**

Regarding **claim 10**, as mentioned in the discussion of claim 1 above, Kellock in view of Tojo teaches all the limitations of the parent claim. Kellock in view of Tojo also discloses that the invention may be embodied within a computer, a PDA, a still camera and a video camera (see Kellock paragraph [0020]). Kellock in view of Tojo, however, fails to explicitly disclose a mode switch for putting said computer, PDA, still camera and video camera in an image editing mode.

The concept of a camera having a mode switch for putting said camera in an image editing mode is old and well known in the art, as evidenced by Okada (see col. 10, lines 26-36)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a mode switch for putting said image editing apparatus in an image editing mode because, since cameras operate in modes other than image editing modes (see col. 10, lines 26-34), they would require a way to change modes to operate as an image editor.

**Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kellock in view of Tojo, and further in view of Kazami et al. (US Patent No. 6,035,093), hereinafter referred to as Kazami.**

Regarding **claim 12**, as mentioned in the discussion of claim 11 above, Kellock in view of Tojo teaches all the limitations of the parent claim. Kellock in view of Tojo discloses a display device, i.e. an audio-visual monitor (see paragraph [0075], lines 7-9). Kellock in view of Tojo, however, does not explicitly teach displaying a list of images, wherein a user using said display device selects plural images from said displayed list of images to be edited.

The concept of selecting plural images for editing from a displayed list of images is well-known in the art, as evidenced by Kazami (see abstract, lines 4-9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to display a list of images, wherein a user selects plural images from said displayed list of images because the user herself can select the images she would like to edit, minimizing unnecessary or unwanted editions.

***Allowable Subject Matter***

**Claims 9 and 13-16** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

**Claim 9** teaches an image editing apparatus wherein a video effect selection device further reads from the video effect recording device: a video effect according to image related information similar in a predetermined range when there is image related information similar in a predetermined range between the image related information about the first and second images as a result of the comparison, and a video effect according to no matching image related information when there is no matching image related information between the image related information about the first and second images as a result of the comparison, which is neither taught or an obvious variation of the prior art.

Regarding **claims 13-16**, parent **claim 13** teaches an image editing apparatus wherein a video effect recording device comprises a table including a list of image related information and a video effect associated with said image related information, which is neither taught or an obvious variation of the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WANDA M. NEGRON whose telephone number is (571)270-1129. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wanda M. Negrón/  
Examiner, Art Unit 2622  
July 18, 2008

/David L. Ometz/  
Supervisory Patent Examiner, Art  
Unit 2622